

## **SUBCHAPTER K : LIVINGSTON RESERVOIR**

### **§284.201. Definitions.**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

**Absorption field** - That part of a septic tank consisting of perforated polyvinyl chloride (PVC) pipe and surrounding permeable material used for the subsurface disposal of septic tank effluent.

**Authority** - The Trinity River Authority.

**Commission** - The Texas Water Commission.

**Holding tank** - An internally vented, watertight tank designed for temporary holding of sewage and so constructed as to prevent the removal of the sewage except by pumping therefrom, for periodic delivery to an approved sewage disposal system.

**House sewer** - The lines which carry sewage from plumbing fixtures to a septic tank, holding tank, or other private sewage facility.

**Lake Livingston or Livingston Reservoir** - The lake in Walker, Trinity, San Jacinto, and Polk Counties created by a dam located approximately six miles southwest of the City of Livingston on the Trinity River between Polk and San Jacinto Counties.

**Organized disposal system** - Any public or private system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a permit from the Texas Water Commission.

**Private sewage facility** - All facilities, systems, and methods, including holding tanks, used for the disposal of sewage other than disposal systems operated under a permit issued by the commission.

**Sewage** - Waste that is primarily organic and biodegradable or decomposable and that generally originates as human, animal, or plant waste from certain activities, including using toilet facilities, washing, bathing, and preparing food.

**Standards** - The standards set forth in the pamphlet entitled "Construction Standards for On-Site Sewerage Facilities" and all future amendments thereto, which were adopted by the Texas Board of Health, pursuant to Texas Civil Statutes, Article 4477-1, as Texas Department of Health rules, 25 TAC §§301.11-301.17 (relating to Construction Standards for On-Site Sewerage Facilities), effective January 1, 1988.

**Subdivision** -

(A) A subdivision which has been platted and recorded with the county clerk of the county or counties in which the land lies, or which is required by statute to be so platted and recorded; or

(B) Any four or more adjoining lots or tracts, any of which is less than two acres in size.

**§284.202. Restricted Area.**

The commission hereby designates the Lake Livingston Restricted Area as the area adjacent to the normal shoreline of Lake Livingston lying within two parallel lines, one of which is the contour line of elevation 131-foot msl (mean sea level) and the other of which is a line parallel to the 131-foot msl line, located at a distance of 75 feet from the 131-foot msl line, measured horizontally away from the lake. The restricted area also includes all the area of the lake bed including all islands.

**§284.203. Water Quality Area.**

The commission hereby designates the Lake Livingston Water Quality Area as the area adjacent to the restricted area and lying within two parallel lines, one of which is a line parallel to the 131-foot msl line located at a distance of 75 feet from the 131-foot msl line, measured horizontally away from the lake, and the other of which is a line parallel to the 131-foot msl line, located at a distance of 2,000 feet from the 131-foot msl line, measured horizontally away from the lake.

**§284.204. Regulations Controlling the Discharge of Sewage Within the Restricted Area.**

No sewage discharges from private sewage facilities of any kind may be made within the restricted area. However, this does not prohibit the removal and disposal of wastes from boats and other watercraft in accordance with §§321.1-321.18 of this title (relating to Boat Sewage Disposal). The authority may not license any private sewage facility in the restricted area which might allow interchange of sewage with lake water during times of flooding. Upon its finding that a holding tank system, properly constructed and carefully operated, presents only a remote threat to endanger water quality in the lake, the authority may license the system as it would such a system under §284.207 of this title (relating to Licensing Requirements for Private Sewage Facilities).

**§284.205. Regulations Controlling the Discharge of Sewage Within the Water Quality Area.**

All sewage disposal within the water quality area shall be in accordance with one of the following types of authorizations:

- (1) sewage discharged into an organized waste disposal system or other facility operating under a valid permit issued by the commission; or
- (2) sewage discharged into a private sewage facility licensed in accordance with the regulations contained in this subchapter; or sewage discharged into an alternate type of private sewage facility which meets the standards of the Texas Department of Health and licensed by the authority.

**§284.206. Licensing Functions.**

The Trinity River Authority of Texas is designated by the commission to perform all licensing functions and enforcement of this subchapter. The authority shall have the following powers:

(1) to make reasonable inspections of all private sewage facilities located or to be located within the area covered by this subchapter; and

(2) to perform all the duties necessary and proper to fulfill the requirements of this subchapter.

**§284.207. Licensing Requirements for Private Sewage Facilities.**

(a) Private sewage facilities installed within the boundaries of the water quality area must meet the following requirements.

(1) A license must be obtained for the use of these facilities from the authority.

(2) The lot or tract which the private sewage facilities will serve must meet the requirements of the latest edition of the "Standards" unless the lot or tract was platted and recorded prior to July 14, 1977.

(b) All private sewage facilities in the water quality area must meet the standards as set out by the Texas Department of Health, a copy of which is available from the authority.

(c) The following are procedures for obtaining licenses for private sewage facilities.

(1) Any license issued under the authority of this subchapter will be transferred to a succeeding owner and such license will continue in existence, provided the new owner applies to the authority and provided there is no significant change in the amount or quality of waste to be placed in the private sewage facility. The authority must approve and record all transfers in order for a succeeding owner to be compliant with this subchapter.

(2) Application forms for licenses may be obtained from the authority. In order to initiate an application, a complete application form together with the appropriate fee shall be filed with the authority.

(3) The authority will cause to be performed such inspections and tests as may be deemed necessary as soon as practicable.

(4) The authority will cause to be performed such inspections as may be necessary to issue a renewal license.

(5) Upon a finding by the authority that the use of a private sewage facility will not cause pollution or injury to the public health, is not in conflict with the terms and conditions of this subchapter, and can be operated in general conformance with the standards set out by the Texas Department of Health, the authority will, after its final inspection and receipt of the appropriate fee, issue a license or a renewal license.

(6) Upon a finding by the authority that the private sewage facility will not be licensed or not be issued a renewal license, the applicant shall be notified in writing of that finding and of the nature of the faults which prevent licensure.

**§284.208. Approval of Subdivision Plans for Private Sewage Facilities.**

(a) Any developer or person desiring to create a subdivision, which lies partially or wholly within the restricted or water quality areas, using private sewage facilities, must obtain approval from the authority of the plans for sewage disposal. The party must fulfill the following requirements.

(1) A plat of the proposed subdivision must be filed with, approved by, and recorded by the county commissioners court of the county in which it is located.

(2) An application for approval of the subdivision sewage disposal plan and appropriate filing fee shall be submitted to the authority.

(3) The developer shall inform each prospective buyer:

(A) that the subdivision is subject to all of the terms and conditions of this subchapter;

(B) that a license will be required for any private sewage facility constructed in the subdivision; and

(C) that a sewage disposal plan has been filed for the subdivision and that the areas suitable for private sewage facilities have been defined.

(4) If an investigation pursuant to this section reveals that a lot is not suitable for use of private sewage facilities, the prospective buyer shall be so notified.

(b) The authority will perform or cause to be performed tests and inspections, deemed necessary by it, to determine whether the subdivision can be served with private sewage facilities, such tests to be at the expense of the developer. By direction of the authority, all or part of the tests may be performed by an engineering firm or soils testing laboratory approved by the authority. The authority will notify the developer of the findings of its examination and will point out any deficiencies in the plan for sewage disposal. Specifically, the authority will notify the developer of any areas not suitable for use of private sewage facilities and whether the proposed developmental density is consistent with the use of private sewage facilities. Approval of a subdivision plan for sewage disposal does not constitute a license for a specific private sewage facility. An approved plan is, however, a prerequisite for obtaining a private sewage facility license in a subdivision.

**§284.209. Existing Private Sewage Disposal Systems.**

All licenses issued by the authority will remain in effect for the term stated therein as if issued under this subchapter.

**§284.210. Connection of Private Sewage Facilities to Organized Waste Collection, Treatment, and Disposal Systems.**

In order to implement the stated policy of the legislature and the commission that the development and use by interested and affected parties or organized waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state should be encouraged, the following requirements are set out.

(1) No license shall be issued for any private sewage facility when any part of the facility is closer than 300 feet in horizontal distance to an organized waste collection, treatment, and disposal system capable of serving in lieu thereof. Rather, the facility shall be connected to the organized system whenever feasible.

(2) Whenever an organized disposal system with service capability is developed within 300 feet in horizontal distance from any part of a private sewage facility, that facility shall be connected to the organized system whenever feasible.

**§284.211. Terms and Conditions for Granting Exceptions.**

The commission intends that the regulations contained in this subchapter shall be enforced but realizes that certain individual situations may require the granting of an exception to the requirements contained in this subchapter so that hardships may be avoided. Therefore, the following terms and conditions are established.

(1) Any person desiring an exception shall file an application with the authority for its analyses of the specifics of the situation.

(2) The authority shall review the application and issue a statement either granting or denying the application. When an application is denied, the statement shall set out what corrective measures, if any, could be undertaken to obtain licensure.

**§284.212. Terms and Conditions of Appeal.**

(a) The commission intends that any disputes concerning the application of these sections to individual situations be negotiated to conclusion between the authority and the individuals involved, if possible. However, any person aggrieved by an action or decision of the authority may appeal to the Texas Water Commission if the following terms and conditions are met.

(1) All of the appropriate steps required of the aggrieved person by the terms and conditions of the subchapter have been met.

(2) The aggrieved person has made a conscientious effort to resolve his problems with the authority.

(b) Appeal is properly made by the aggrieved party by filing a written statement stating with specificity the nature of the grievance. This statement is to be filed with the executive director of the commission who will then cause notice of the appeal to be issued to the authority. The executive director will then forward the appeal to the Texas Water Commission for its consideration.

**§284.213. Fees.**

(a) License fees, inspection fees, and renewal fees will be in accordance with a fee schedule established by the authority. These fees shall be paid to and collected by the authority so long as the authority remains the designated agent for the purposes and functions specified in this subchapter.

(b) The establishment of this fee schedule does not impair or prohibit the imposition of reasonable charges by the authority for special services performed by the authority at the request of the applicant in connection with presentation of an application and required data. Percolation tests and other examinations may be performed by engineering firms or soils testing laboratories approved by the authority.

**§284.214. Enforcement of this Subchapter.**

Unauthorized private sewage facilities, unlicensed private sewage facilities, and malfunctioning private sewage facilities, which are a threat to water quality and public health, are subject to, among other enforcement actions, the following.

(1) Criminal penalty, Texas Water Code, §26.214.

(A) A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day that a violation occurs constitutes a separate offense.

(B) Jurisdiction for prosecution of a suit under this section is in the justice of the peace courts.

(C) Venue for prosecution of a suit under this section is in the justice of the peace precinct in which the violation is alleged to have occurred.

(2) Civil penalty. A person who violates any provision of this subchapter is subject to an injunction by court order and to a civil penalty of not less than \$50 nor more than \$10,000 for each act of violation and for each day of violation, to be recovered as provided in the Texas Water Code, Chapter 26.

**§284.215. Severability Clause.**

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this subchapter and of the application of such provision to other persons and circumstances shall be affected thereby.

**§284.216. Fee Schedule.**

The authority shall establish a fee schedule for the private sewage facilities regulatory program around Livingston Reservoir and maintain a copy of such fee schedule at the authority's offices for inspection by the public. Such fee schedule shall set reasonable fees for services performed by or at the direction of the authority and may, subject to applicable laws, be amended by the authority from time to time.